

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shevani Patel	Team: Squad #3	CCRB Case #: 201504469	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/23/2015 8:42 PM	Location of Incident: § 87(2)(b) en route the 121st Precinct stationhouse, 121st Precinct stationhouse and § 87(2)(b)		Precinct: 121	18 Mo. SOL 11/23/2016	EO SOL 11/23/2016
Date/Time CV Reported Tue, 05/26/2015 4:07 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/02/2015 2:34 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Vasile Dubovici	05254	944191	121 PCT
2. POM Antonio Cannata	18584	943044	121 PCT
3. POM Jonathan Glazer	01037	949035	121 PCT
4. POM Jeffrey Maira	16359	944113	121 PCT
5. LT James Trabulsy	00000	935866	121 PCT
6. Officers			121 PCT
7. An officer			121 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Vincenzo Trabolse	07477	942882	121 PCT
2. POM Glenn Semioli	11436	946710	121 PCT
3. POM Garrett Rocas	11083	940650	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Vasile Dubovici	Abuse: At § 87(2)(b) in Staten Island, Sgt. Vasile Dubovici interfered with § 87(2)(b)'s use of a recording device.	
B.POM Jonathan Glazer	Force: At § 87(2)(b) in Staten Island, PO Jonathan Glazer used physical force against § 87(2)(b)	
C.SGT Vasile Dubovici	Force: At § 87(2)(b) in Staten Island, Sgt. Vasile Dubovici used physical force against § 87(2)(b)	
D.POM Jonathan Glazer	Off. Language: At § 87(2)(b) in Staten Island and § 87(2)(b) PO Jonathan Glazer made remarks to § 87(2)(b) based upon race.	

Officer(s)	Allegation	Investigator Recommendation
E. Officers	Force: At § 87(2)(b) in Staten Island, officers used physical force against § 87(2)(b)	
F.POM Antonio Cannata	Force: At § 87(2)(b) in Staten Island, PO Antonio Cannata used a chokehold against § 87(2)(b)	
G.POM Antonio Cannata	Force: At § 87(2)(b) in Staten Island, PO Antonio Cannata used physical force against § 87(2)(b)	
H.POM Antonio Cannata	Discourtesy: At § 87(2)(b) in Staten Island, PO Antonio Cannata spoke discourteously to § 87(2)(b)	
I.POM Antonio Cannata	Discourtesy: At § 87(2)(b) in Staten Island, PO Antonio Cannata spoke discourteously to § 87(2)(b)	
J.POM Jeffrey Maira	Force: At § 87(2)(b) in Staten Island, PO Jeffrey Maira used pepper spray against § 87(2)(b)	
K. An officer	Off. Language: En route to the 121st Precinct Stationhouse, an officer made a remark to § 87(2)(b) about his perceived mental disability.	
L.LT James Trabulsy	Discourtesy: At the 121st Precinct stationhouse, Lt. James Trabulsy spoke discourteously to § 87(2)(b)	
M. An officer	Discourtesy: At § 87(2)(b) an officer spoke discourteously to § 87(2)(b)	
N. An officer	Off. Language: At § 87(2)(b) an officer made remarks to § 87(2)(b) based upon race.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 26, 2015, § 87(2)(b) filed this complaint with IAB over the phone. IAB generated log number 15-14615 and referred the case to the CCRB on June 2, 2015 (Board Review 01).

On May 23, 2015, at approximately 8:42 p.m., § 87(2)(b) allegedly assaulted his sister, § 87(2)(b) and her children at § 87(2)(b) in Staten Island. § 87(2)(b) intervened and was allegedly punched by § 87(2)(b). § 87(2)(b) left the area. Sgt. Vasile Dubovici and PO Jonathan Glazer of the 121st Precinct responded to a radio run of a family dispute. § 87(2)(b) encountered them outside. § 87(2)(b) stood next to him and started to record with his cell phone. Sgt. Dubovici allegedly knocked the phone out of § 87(2)(b)'s hands and stomped on it (**Allegation A**). PO Glazer told § 87(2)(b) to put his hands behind his back, grabbed one of his arms and his waist, and took him to the ground where he allegedly punched his face and ribs (**Allegation B**). Sgt. Dubovici allegedly kicked § 87(2)(b)'s ribs (**Allegation C**). PO Glazer allegedly called § 87(2)(b) a “low dirty down nigger,” and allegedly told him, “You could take a nigger out of the projects, but you can’t take the projects out of him” (**Allegation D**). § 87(2)(b) was handcuffed. Several other officers arrived. § 87(2)(b) was placed into a marked RMP. § 87(2)(b) arrived on scene with his parents, § 87(2)(b) and § 87(2)(b) to inform the officers that § 87(2)(b) caused him injury. § 87(2)(b) allegedly approached the RMP and threatened § 87(2)(b). Officers told the § 87(2)(b) family, who was standing in the street, to leave. An officer shoved § 87(2)(b) in his chest and told him to move away (**Allegation E**). § 87(2)(b) stumbled back. As § 87(2)(b) was about to leave, PO Antonio Cannata jumped on him from the front, wrapped his forearm around the front of his neck and pulled him forward to the ground (**Allegation F**). His breathing was not restricted. PO Cannata lost his balance and fell to the ground. § 87(2)(b) backed up and PO Cannata held onto his shoulders, turned him to the side and allegedly kicked the right side of his ankles two or three times (**Allegation G**). § 87(2)(b) sat on the ground on his own with his legs flat in front of him and his torso upright. PO Cannata allegedly shoved § 87(2)(b)'s head forward towards his feet and held it there (**Allegation G continued**). § 87(2)(b) complained that his back was hurting and PO Cannata allegedly responded, “I don’t give a shit” (**Allegation H**). § 87(2)(b) was handcuffed. § 87(2)(b) allegedly placed PO Cannata in a chokehold and pulled him off of § 87(2)(b). She was also arrested. When § 87(2)(b) was placed into an RMP she asked if the windows could be lowered. PO Cannata allegedly told her, “Fuck you, you bitch. You thought you were a fucking tough bitch outside the car. Suffocate” (**Allegation I**). § 87(2)(b) told the officers that his parents had done nothing wrong. Officers, who he could not see, pushed him forward to the ground and handcuffed him. While he was on the ground, PO Jeffrey Maira pepper-sprayed him four or five times (**Allegation J**). Officers, who he could not see, hit him on his left and right sides near his ribs (**Allegation E continued**). En route to the 121st Precinct stationhouse, § 87(2)(b) was called a “retard” and a “loser” (**Allegation K**). At the 121st Precinct stationhouse, Lt. James Trabulsy was working at the desk. After § 87(2)(b) requested water, Lt. Trabulsy allegedly told her, “I told you to shut the fuck up” (**Allegation L**). At § 87(2)(b) an unidentified officer called § 87(2)(b) a “fuckin’ nigga,” and said, “You wonder why we kicked your ass? You’re disrespectful” (**Allegations M and N**). PO Glazer told him, “I don’t punch niggers 150 times a day (**Allegation D continued**).

§ 87(2)(b), § 87(4-b), § 87(2)(g)

§ 87(2)(b) was charged with § 87(2)(b) (Board Review 02 and 03). § 87(2)(b) was charged with § 87(2)(b) (Board Review 04). § 87(2)(b) was charged with § 87(2)(b) (Board Review 05). § 87(2)(b) was charged with § 87(2)(b) (Board Review 06). § 87(2)(b)'s next court date is § 87(2)(b). § 87(2)(b)'s next court date is § 87(2)(b). § 87(2)(b)'s next court date is § 87(2)(b). § 87(2)(b) pled guilty to disorderly conduct, was sentenced to a \$250 fine and received a conditional discharge. Her next court date is § 87(2)(b) (Board Review 07).

This case is over 90 days old. Three civilians were uncooperative after exhaustive attempts to reach them. Thereafter, eight officers were interviewed.

There is no video footage associated with this case.

Mediation, Civil and Conviction Histories

- This case was unsuitable for mediation because of a civil lawsuit, officer and civilian injuries, and arrests.
- § 87(2)(b) and § 87(2)(b) filed Notices of Claim with the City of New York, claiming physical and emotional injuries. § 87(2)(b) and § 87(2)(b) are seeking two million dollars as redress (Board Review 08-10).
- § 87(2)(b) (Board Review 11).

Civilians and Officers CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- Sgt. Dubovici has been a member of the NYPD for eight years and has three previous CCRB cases involving nine allegations, none of which were substantiated. Two were physical force allegations which closed as exonerated and unsubstantiated.
- PO Glazer has been a member of the NYPD for five years, has 11 previous CCRB cases involving 37 allegations, of which three were substantiated. In case number 201407897, allegations of a car search and a search of person were substantiated. The NYPD has yet to

impose any disciplinary action. In case number 201409418, a car search was substantiated. He was penalized with command discipline A and instructions.

- PO Cannata has been a member of the NYPD for eight years and has three previous CCRB cases involving four allegations, none of which were substantiated. Two were physical force allegations which closed as exonerated and complainant uncooperative.
- PO Maira has been a member of the NYPD for eight years and has two previous CCRB cases involving four allegations. Two were physical force allegations which were both closed as exonerated.
- Lt. Trabulsy has been a member of the NYPD for 11 years and has had three previous CCRB cases involving three allegations, none of which were substantiated.

Findings and Recommendations

Allegations not pleaded

- **Physical force:** § 87(2)(b) alleged that officers pushed her torso against the hood of a vehicle (without releasing contact) to handcuff her. § 87(2)(b) alleged that he was pushed to the ground and handcuffed. Because the force alleged here was used incident to arrests and does not rise to the level of an allegation of misconduct, this allegation is not being pleaded.
- **Discourtesy:** § 87(2)(b) alleged that an officer told § 87(2)(b) to “get on [his] fucking stomach,” and that an officer told § 87(2)(b) to “shut the fuck up.” Because § 87(2)(b) and § 87(2)(b) did not make these allegations, it is not being pleaded.
- **Discourtesy:** § 87(2)(b) alleged that an officer called § 87(2)(b) and § 87(2)(b) “trailer trash.” Because they did not make this allegation, it is not being pleaded.

Allegation A –Abuse of Authority: At § 87(2)(b) in Staten Island, Sgt. Vasile Dubovici interfered with § 87(2)(b)'s use of a recording device.

Allegation B -Force: At § 87(2)(b) in Staten Island, PO Jonathan Glazer used physical force against § 87(2)(b)

Allegation C -Force: At § 87(2)(b) in Staten Island, Sgt. Vasile Dubovici used physical force against § 87(2)(b)

Allegation D –Offensive Language: At § 87(2)(b) in Staten Island and § 87(2)(b) PO Jonathan Glazer made remarks to § 87(2)(b) based upon race.

Allegation M -Discourtesy: At § 87(2)(b) an officer spoke discourteously to § 87(2)(b)

Allegation N –Offensive Language: At § 87(2)(b) an officer made remarks to § 87(2)(b) based upon race.

On August 3, 2015, § 87(2)(b) provided a telephone statement (Board Review 13). § 87(2)(b) encountered Sgt. Dubovici and PO Glazer outside. An individual known to him as § 87(2)(b) recorded with his cell phone. Sgt. Dubovici allegedly knocked the phone out of § 87(2)(b)'s hands and stomped on it. PO Glazer grabbed one of § 87(2)(b)'s arms and his waist, and took him to the ground where he allegedly punched his face and ribs. Sgt. Dubovici allegedly kicked § 87(2)(b)'s ribs. PO Glazer called § 87(2)(b) a “low dirty down nigger,” and told him, “You could take a nigger out of the projects, but you can’t take the projects out of him.” At the hospital, an unidentified officer called § 87(2)(b) a “fuckin’ nigga,” and

said, “You wonder why we kicked your ass? You’re disrespectful.” PO Glazer told him, “I don’t punch niggers 150 times a day.” § 87(2)(b) failed to cooperate with the investigation’s attempts to obtain a sworn statement. § 87(2)(b) provided no contact information for § 87(2)(b). Searches of the White Pages, BADS and Lexis Nexis revealed no result for § 87(2)(b). Therefore, the CCRB could not speak with him. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation E -Force: At § 87(2)(b) in Staten Island, officers used physical force against § 87(2)(b)

Allegation K –Offensive Language: En route to the 121st Precinct stationhouse, an officer made a remark to § 87(2)(b) about his perceived mental disability.

§ 87(2)(b) stated that an officer shoved his chest, and that officers, who he could not see, hit him on his left and right sides near his ribs after he was handcuffed. He also alleged that en route to the 121st Precinct stationhouse, an unidentified officer called him a “retard.” No other civilians witnessed these allegations. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation F-Force: At § 87(2)(b) in Staten Island, PO Antonio Cannata used a chokehold against § 87(2)(b)

On June 4, 2015, § 87(2)(b) provided a telephone statement (Board Review 14). On June 12, 2015, he provided a sworn statement (Board Review 15). On October 26, 2015, he provided additional information over the phone (Board Review 16). § 87(2)(b) stated that officers told him and his family to leave. He lit a cigarette on his way to the car. He saw an officer shove § 87(2)(b) but did not see what § 87(2)(b) had done prior to this. In reaction, § 87(2)(b) said, “Whoah.” He was standing about three feet away from the next closest person or officer. From the right, PO Cannata jumped onto § 87(2)(b) wrapping his left arm around § 87(2)(b) s neck with his forearm against the front of § 87(2)(b) s neck. § 87(2)(b) did not recall where PO Cannata’s right arm was. PO Cannata pulled him forward. § 87(2)(b) was in a chokehold for a few seconds. PO Cannata applied pressure with his forearm to § 87(2)(b) s neck. § 87(2)(b) s breathing was not restricted. § 87(2)(b) stood straight up as he said, “You’re choking me,” and PO Cannata fell to the ground. § 87(2)(b) stated that he complained about being choked at the stationhouse, and an officer told him, “Officer Cannatta. That’s his name. Do what you got to do.”

§ 87(2)(b) s medical records from § 87(2)(b) note that he had a neck muscle strain (Privileged Documents). § 87(2)(b) s arrest photograph shows no visible marks, lacerations or bruises (Board Review 17). No medical treatment of prisoner report was prepared for § 87(2)(b). His command log entry lists his physical and mental condition as apparently normal (Board Review 18).

On June 4, 2015, § 87(2)(b) provided a telephone statement (Board Review 19). On June 12, 2015, she provided a sworn statement (Board Review 20). She heard § 87(2)(b) say,

“You’re choking me.” She turned and saw PO Cannata facing him with one hand wrapped around the back of his neck. She could not recall if PO Cannata released contact with § 87(2)(b)

On July 8, 2015, § 87(2)(b) provided a telephone statement (Board Review 21). He said that PO Cannata wrapped both of his arms around § 87(2)(b)’s neck from behind and pulled him to the floor. § 87(2)(b) turned red and was handcuffed.

On August 3, 2015, § 87(2)(b) provided a telephone statement (Board Review 13). He saw officers grab § 87(2)(b) and bring him to the ground, but he could not see how they did that.

On June 17, 2015, § 87(2)(b) provided a telephone statement (Board Review 22). When she was asked if she saw § 87(2)(b) get handcuffed, she said that she could not see what was going on. When asked if she ever saw an officer use a chokehold on him, she said that an officer pulled him to the ground by the neck and immediately handcuffed him.

§ 87(2)(b) failed to cooperate with the investigation’s attempts to obtain her statement.

On July 23, 2015, PO Cannata was interviewed at the CCRB (Board Review 23). While officers were apprehending § 87(2)(b), § 87(2)(b) ran towards them. PO Cannata put his arm up in a “stiff arm” and told him to stay back, nudging his chest twice. § 87(2)(b) stumbled back. § 87(2)(b) took a lit cigarette, placed it close to PO Cannata’s face and said, “I’m going to fucking kill you guys.” Using his left hand, PO Cannata grabbed § 87(2)(b)’s wrist (he could not recall which arm), placed his right hand on the same arm’s elbow and attempted to turn him around. § 87(2)(b) pulled away. PO Cannata tried to bring him down to the ground by pulling his back. He never placed his arm or forearm around § 87(2)(b)’s neck or made any contact with his neck or throat area. He never put § 87(2)(b) into a headlock, jumped on him or pulled him down by his neck. No officer placed him into a chokehold. § 87(2)(b) never complained of being placed into a chokehold or made any related statements. § 87(2)(b) interfered with the arrest of § 87(2)(b) and PO Cannata focused his attention on her. After she was subdued, he saw that § 87(2)(b) was handcuffed. PO Cannata did not see if he was brought to the ground.

The other responding officers provided the following statements, denying that any chokehold or headlock was used against § 87(2)(b)

On August 6, 2015, PO Maira was interviewed at the CCRB (Board Review 26). During § 87(2)(b)’s apprehension, § 87(2)(b) grabbed officers, who were trying to take § 87(2)(b) in custody. PO Maira went in between § 87(2)(b) and the officers. Officers, who he could not recall, came from behind § 87(2)(b) and brought him down to the ground in a takedown maneuver, which PO Maira was unable to recall or describe. § 87(2)(b) was pushed forward.

On July 23, 2015, Sgt. Dubovici was interviewed at the CCRB (Board Review 27). He saw PO Cannata and two other officers he did not recall facing § 87(2)(b). He did not recall if § 87(2)(b) was brought to the ground. At the stationhouse, § 87(2)(b) complained of

shortness of breath and stress. He said that someone choked him, but did not point out which officer did that or make any further statements regarding it.

On August 7, 2015, PO Glazer was interviewed at the CCRB (Board Review 28). He said that three or four officers, who he could not recall, grabbed § 87(2)(b) arms and took him to the ground. He did not know if he was swept down to the ground.

On August 28, 2015, PO Semioli was interviewed at the CCRB (Board Review 29). PO Semioli did not see officers initially approach § 87(2)(b). He had no recollection of the apprehension.

On August 6, 2015, PO Trabolse was interviewed at the CCRB and on August 17, 2015, PO Roces was interviewed at the CCRB (Board Review 34-35). Neither officer saw officers apprehend § 87(2)(b).

Patrol Guide Procedure 203-11 authorizes officers to use the minimum amount of force necessary to effect an arrest. Officers are not permitted to place individuals in a chokehold. A chokehold is defined as any maneuver which applies pressure to the throat or windpipe, which may prevent or hinder breathing or reduce the intake of air (Board Review 36).

§ 87(2)(g)
[REDACTED]

Allegation G -Force: At § 87(2)(b) in Staten Island, PO Antonio Cannata used physical force against § 87(2)(b)

§ 87(2)(b) said that as PO Cannata stood up from falling, § 87(2)(b) backed up a step or two. PO Cannata held onto his shoulders, turned his body to the side and kicked the right side of his ankles two or three times in what seemed like an attempt to knock him down or sweep him to the ground with his feet. § 87(2)(b) sat himself on the ground with his legs flat in front of him and his torso upright. PO Cannata told him to lay flat on his stomach. § 87(2)(b) moved his left leg in order to move it behind him. With one hand, PO Cannata shoved his head forward against his feet and held it there. Another officer, who § 87(2)(b) could not see, helped PO Cannata place handcuffs on him. § 87(2)(b) did not resist the officer's efforts to

handcuff him. He did not move his body around or pull his arms away. § 87(2)(b)'s ambulance call report from § 87(2)(b) notes that he complained of back pain, but denied further injury (Privileged Documents). His medical records from § 87(2)(b) note that he had small superficial abrasions and cuts to his right ankle and foot, and a neck and back muscle strain (Privileged Documents).

§ 87(2)(b) saw § 87(2)(b) sitting with his legs flat. She did not see how he got to the ground. PO Cannata pushed his head forward. § 87(2)(b) stated that § 87(2)(b) was brought to the ground by the headlock. § 87(2)(b) said that he was brought to the ground by his neck. § 87(2)(b) stated that four officers grabbed § 87(2)(b) and brought him to the ground. § 87(2)(b) could not describe how the officers did this.

According to PO Cannata, § 87(2)(b) ran towards the officers while § 87(2)(b) was being handcuffed. He grabbed one of § 87(2)(b)'s wrists, placed his other hand on the same arm's elbow and attempted to turn him around. § 87(2)(b) pulled away. PO Cannata tried to pull him down to the ground. At this point, § 87(2)(b) placed him into a chokehold and he released § 87(2)(b)'s wrist. § 87(2)(b) was handcuffed by other officers. PO Cannata never attempted to sweep § 87(2)(b)'s feet. He never kicked his legs or his ankles or pushed his head towards the ground. PO Cannata did not see if he was brought to the ground.

Sgt. Dubovici said that § 87(2)(b) attempted to shove officers. PO Cannata and two other officers tried to arrest him. Sgt. Dubovici could not recall if he was ever on the ground. He saw no officer kick him or shove his head. PO Glazer said that officers took § 87(2)(b) to the ground by his arms. PO Trabulse and PO Roces did not see the apprehension. The arrest documentation and criminal complaint report, prepared by PO Semioli, notes that § 87(2)(b) tensed his arms and pulled away from officers in an attempt to resist being handcuffed (Board Review 04; 31-32). PO Semioli could not recall the apprehension.

Patrol Guide Procedure 203-11 authorizes officers to use the minimum amount of force necessary to effect an arrest (Board Review 36).

§ 87(2)(g)
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Allegation H -Discourtesy: At § 87(2)(b) in Staten Island, PO Antonio Cannata spoke discourteously to § 87(2)(b)

§ 87(2)(b) told PO Cannata that he was hurting his back as he allegedly pushed his head down, and PO Cannata allegedly responded, "I don't give a shit." PO Cannata denied making that statement or using any profanity towards § 87(2)(b). No other civilian or officer corroborated this allegation. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation I -Discourtesy: At § 87(2)(b) in Staten Island, PO Antonio Cannata spoke discourteously to § 87(2)(b)

§ 87(2)(b) was handcuffed and placed into an RMP across the street with all of the windows closed. She asked if they could be lowered because of her panic disorder. PO Cannata replied, “Fuck you, you bitch. You thought you were a fucking tough bitch outside of the car. Suffocate.” § 87(2)(b) denied making physical contact with PO Cannata during § 87(2)(b)'s arrest.

§ 87(2)(b) did not see § 87(2)(b) get placed into the RMP. After officers handcuffed § 87(2)(b) § 87(2)(b) heard an officer, who he could not see, call her a “bitch.” § 87(2)(b) stated that an officer, who she could not describe, called § 87(2)(b) a “cunt” and a “stupid bitch.” § 87(2)(b) also said that § 87(2)(b) jumped on an officer’s back. § 87(2)(b) stated that officers did not use any profanity towards § 87(2)(b).

PO Cannata alleged that during § 87(2)(b)'s apprehension, § 87(2)(b) placed her arm around PO Cannata’s throat and pushed him, causing him to fall. When he tried to handcuff her, she pushed and pulled away and dug her fingernails into her arm, causing him to sustain lacerations. PO Cannata placed § 87(2)(b) into an RMP. There was no other officer with him. PO Cannata did not recall § 87(2)(b) requesting for windows to be lowered. She made no remarks in the car. He denied engaging in any conversation with § 87(2)(b) at the car, making the alleged remarks or using any profanity towards her. PO Cannata brought photographs of the injuries caused by § 87(2)(b). His left wrist and arm has abrasions and his right elbow has a three inch laceration (Board Review 24). The AIDED and line-of-duty injury reports prepared for PO Cannata notes that he suffered lacerations, abrasions and sprains to both arms and wrists (Board Review 25).

No other officer interviewed heard other officers use profanity.

Patrol Guide Procedure 203-09 stipulates that officers must be courteous and respectful (Board Review 37). Absent circumstances where profanity is used for law enforcement, officers are prohibited from using the word “bitch” or other remarks made for the purpose of causing insult when a civilian is acting belligerent. NYPD v. Jean-Mary, OATH Index No. 129/01 (Board Review 38).

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§ 87(2)(g)

Allegation J -Force: At § 87(2)(b) in Staten Island, PO Jeffrey Maira used pepper spray against § 87(2)(b)

In his telephone statement, § 87(2)(b) stated that after he was handcuffed and while he was on the ground, an officer, who he could not see, pepper-sprayed him from the side four or five times.

According to § 87(2)(b) began to “flip out,” asking what was going on and why the officers had handcuffed his parents. He was against the hood of the car that she was seated in. He wiggled his torso around, but was not moving his arms around. A male officer she could not further describe pepper sprayed § 87(2)(b) four times. He screamed that his eyes were burning. § 87(2)(b) did not know at which point § 87(2)(b) was handcuffed.

§ 87(2)(b) saw § 87(2)(b) being pepper-sprayed one time by an officer. He did not see if § 87(2)(b) was handcuffed or what happened before this. § 87(2)(b) later told him that he was pepper-sprayed three times.

PO Maira stated that he stood with § 87(2)(b) who was already in handcuffs. While watching his parents get arrested, § 87(2)(b) became manic. PO Maira used his left hand to hold onto § 87(2)(b)'s right elbow. § 87(2)(b)'s right shoulder moved violently to the left. He kicked, writhed and tried to pull away from PO Maira's grip. PO Maira deployed a minimal amount of pepper spray (a very short burst). Given that he was alone and no other officer was assisting him in dealing with § 87(2)(b) PO Maira felt that this was the most “non-lethal and non-evasive [sic]” force that PO Maira could think of at the moment. PO Maira told § 87(2)(b) to calm down and breath. He was the only officer to deploy pepper spray on scene. EMS arrived on scene and washed § 87(2)(b)'s eyes out.

All of the other officers interviewed denied seeing the use of pepper-spray. Sgt. Dubovici and PO Glazer smelt pepper-spray. PO Trabole washed § 87(2)(b)'s eyes out with water. PO Cannata said that in the RMP on the way to the stationhouse, § 87(2)(b) said that he was pepper sprayed.

Patrol Guide Procedure 203-11 authorizes officers to use the minimum amount of force necessary to effect an arrest (Board Review 36). Patrol Guide Procedure 212-95 authorizes an officer to use pepper spray when he believes it necessary to effect an arrest of someone resisting arrest (Board Review 39).

§ 87(2)(g)

Allegation L -Discourtesy: At the 121st Precinct stationhouse, Lt. James Trabulsy spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that she had a panic attack at the front desk, and that she and § 87(2)(b) repeatedly asked for a drink of water for her. Lt. Trabulsy allegedly told her, “I told you to shut the fuck up.” According to § 87(2)(b) Lt. Trabulsy said, “Shut your mouth,” but he did not allege that he used any discourteous language. Lt. Trabulsy was interviewed at the CCRB on September 18, 2015 (Board Review 40). Lt. Trabulsy recalled that § 87(2)(b) had trouble breathing, but he denied making that statement or using profanity towards her. No officer interviewed heard profanity being used at the stationhouse. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Pod:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date